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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,430	01/25/2002	Rafael Rangel-Aldao	1390.0070006	7557
26111	7590	12/29/2005	EXAMINER	
STERNE, KESSLER, GOLDSTEIN & FOX PLLC 1100 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			KUHS, SARAH LOUISE	
			ART UNIT	PAPER NUMBER
			1761	

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/055,430

Applicant(s)

RANGEL-ALDAO ET AL.

Examiner

Sarah L. Kuhns

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 46-52 and 54 is/are pending in the application.
- 4a) Of the above claim(s) 48,49 and 52 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 46,49-51 and 54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The Examiner notes that claims 50 and 54 are multiple dependent claims and that some of the claims from which they depend have been withdrawn. As such, claims 50 and 54 have not been treated on the merits with regard to the withdrawn claims.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 16, 2005, has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 46, 49-51 and 54 are rejected under 35 U.S.C. 102(a) as being anticipated by Bravo et al., EP 0 773 285 A2. Bravo discloses a method of stabilizing the flavor of a fermented malt beverage, such as beer, comprising contacting the

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beverage with at least one agent that is immobilized on a solid support and that inhibits reduces, binds or otherwise inactivates one or more of the alpha-carbonyl Maillard reaction intermediates wherein the agent is aminoguanidine and the beer is made by producing a grain malt, producing a wort from the grain malt and fermenting the wort (abstract; column 1, lines 25-34; column 6, lines 26-34; column 14, lines 23-27).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 46, 49-51 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cerami et al., U.S. Patent 4,758,583, in view of Applicant's admissions, Geiger et al., U.S. Patent 3,711,293, and Weetall, U.S. Patent 4,500,554.

In regard to claims 46 and 54, Cerami discloses a method of stabilizing the flavor of a foodstuff comprising contacting the foodstuff with an agent that inhibits, reduces,

binds or otherwise inactivates one or more alpha-dicarbonyl Maillard reaction intermediates (column 3, lines 4-25). Cerami does not state that the foodstuff can be a malt beverage as claimed. However, Applicants admit that the spoilage of beer due to Maillard reactions is notoriously well known (specification, pages 8, lines 22-28). As such, it would have been obvious to one of ordinary skill in the art to extend the method of Cerami to beer or other malt beverages since the method had been shown to prevent the formation of the advanced glycosylation end products formed in foodstuffs as a result of Maillard reactions, which would in turn prevented premature aging and spoilage. Cerami does not disclose the agent being immobilized on a support. However, it was well known in the art of alcoholic beverages to immobilize chemical agents on supports as evidenced by both Geiger (column 3, lines 11-19) and Weetall (column 1, lines 56-60 and example 1). As such, it would have been obvious to immobilize the chemical agent of Cerami on a support in order to allow for easy removal of the agent from the beverage and avoid a filtration or separation step later in the process.

In regard to claims 49 and 54, Cerami does not state that the foodstuff can be a malt beverage as claimed. Applicants admit that steps (a)-(c) are conventional in the art of beer making (page 1, lines 17-23). Applicants also admit that the spoilage of beer due to Maillard reactions is notoriously well known (specification, pages 8, lines 22-28). As such, it would have been obvious to one of ordinary skill in the art to extend the method of Cerami to beer or other malt beverages since the method had been shown to prevent the formation of the advanced glycosylation end products formed in foodstuffs

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as a result of Maillard reactions, which would in turn prevented premature aging and spoilage. Cerami does not disclose the agent being immobilized on a support.

However, it was well known in the art of alcoholic beverages to immobilize chemical agents on supports as evidenced by both Geiger (column 3, lines 11-19) and Weetall (column 1, lines 56-60 and example 1). As such, it would have been obvious to immobilize the chemical agent of Cerami on a support in order to allow for easy removal of the agent from the beverage and avoid a filtration or separation step later in the process.

In regard to claims 50 and 51, Cerami discloses the agent being aminoguanidine (column 3, lines 4-9).

Response to Arguments

Applicant's arguments, with respect to the 35 U.S.C. 112 rejections of the claims have been fully considered and are persuasive. These rejections have been withdrawn accordingly.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah L. Kuhns whose telephone number is 571-272-1088. The examiner can normally be reached on Monday - Friday from 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached at 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SLK


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